

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JONES,)	
)	Civil Action
Plaintiff)	No. 10-cv-05262
)	
vs.)	
)	
MICHAEL J. ASTRUE,)	
Commissioner of the Social)	
Security Administration,)	
)	
Defendant)	
)	
SOCIAL SECURITY ADMINISTRATION)	
)	
Interested Party)	

O R D E R

NOW, this 21st day of May, 2012, upon consideration of
the following documents:

(1) Decision of Administrative Law Judge Katie H.
Pierce dated July 15, 2009¹;

(2) Complaint filed October 28, 2010;

(3) Answer filed January 10, 2011;

(4) Motion for Summary Judgment filed by plaintiff
on February 28, 2011; together with

Brief in Support of Plaintiff's Motion for
Summary Judgment;

(5) Defendant's Response to Request for Review of
Plaintiff, which response was filed May 4, 2011;

(6) Reply Brief in Support of Plaintiff's Motion
for Summary Judgment, which reply brief was filed
May 20, 2011;

¹

See Document 7, pages 9-21.

(7) Report and Recommendation of United States Magistrate Judge Henry S. Perkin filed September 28, 2011;

(8) Plaintiff's Objection[s] to the Report and Recommendation of the Magistrate Judge, which objections were filed October 12, 2011; and

(9) Defendant's Response to Plaintiff's Objections to the Magistrate Judge's Report and Recommendation, which response was filed October 25, 2011;

after a thorough de novo review of the record in this matter; and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that Magistrate Judge Perkin's Report and Recommendation is approved and adopted in part, and rejected in part.

IT IS FURTHER ORDERED that page one, line eight, through page six, line eight, and line two, page nine through line nine, page sixteen of Magistrate Judge Perkin's Report and Recommendation is approved and adopted here.

IT IS FURTHER ORDERED that plaintiff's objections to the Report and Recommendation are sustained in part and overruled in part.

IT IS FURTHER ORDERED that plaintiff's objection alleging that the Administrative Law Judge's conclusions regarding plaintiff's sleep disorder are not supported by substantial evidence is sustained.

IT IS FURTHER ORDERED that plaintiff's objection alleging that Magistrate Judge Perkin ignored highly probative evidence of a psychiatric impairment is overruled.

IT IS FURTHER ORDERED that plaintiff's objection alleging that Magistrate Judge Perkin erroneously accepted both the Administrative Law Judge's reliance on flawed vocational expert testimony and her conclusion that plaintiff was capable of doing light work is overruled.

IT IS FURTHER ORDERED that plaintiff's request for review is granted in part and denied in part.²

IT IS FURTHER ORDERED that plaintiff's request for review in the nature of a request to remand is granted.

IT IS FURTHER ORDERED that the decision of the Commissioner dated July 15, 2009 and affirmed by the Appeals Council on July 29, 2010 which denied benefits to plaintiff Charles Jones is reversed.

² Pursuant to paragraph 3 of the Procedural Order for Social Security Review, plaintiff is required to file and serve "Plaintiff's Brief and Statement of Issues in Support of Request for Review and Motion for Summary Judgment". Plaintiff did file a brief in support of his motion for summary judgment on February 28, 2011.

I am considering plaintiff's brief as both his brief and statement of issues in support of his request for review. In addition, I consider paragraph 1 of plaintiff's Complaint in which he "seeks judicial review pursuant to 42 U.S.C. § 405(g) of an adverse decision of the defendant" to be a "Request for Review".

Plaintiff's "Motion for Summary Judgment" filed February 28, 2011 is no longer a required or appropriate procedure in an action seeking review of a decision by the Commissioner of Social Security denying plaintiff Supplemental Security Income benefits. Accordingly, I am disregarding it.

IT IS FURTHER ORDERED that judgment is entered in favor of plaintiff Charles Jones and against Michael J. Astrue, Commissioner of the Social Security Administration.

IT IS FURTHER ORDERED that this matter is remanded in accordance with the fourth sentence of 42 U.S.C. § 405(g) to the Commissioner of the Social Security Administration for further proceedings consistent with this Order.

IT IS FURTHER ORDERED that, in all other respects, plaintiff's request for review is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark the above-captioned matter closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge